

On July 19, 2023, Objectors filed their objections to Plaintiffs’ Motion for Final Settlement Approval and Motion for Attorneys’ Fees. Objectors make three simple objections: (1) the proposed \$725 million settlement represents an unjustifiable 99.9% discount of available statutory damages and is neither fair, reasonable nor adequate; (2) the settlement fails to treat Class members equitably relative to each other because it fails to account for the far stronger consent defense available to defendant for Class members who joined Facebook after 2009; and (3) as attorneys’ fees, Class Counsel should receive less than the 12.9% average percentage fee in megafund recoveries of \$500 million or more. Each of the objections is simply stated and rational, and the objectors have complied with the nine objection requirements set forth in paragraph 15 of the Court’s March 28, 2023 preliminary approval order.

On July 20, 2023, counsel for Objector, Kendrick Jan, received a phone call from lead Class Counsel Cari Laufenberg and Lesley Weaver. At the time of the call, Ms. Laufenberg and Ms. Weaver were bound by a discovery stay in the captioned matter, but failed to inform Jan of the stay. Instead they stated their immediate intent to take the depositions of Objectors and asked for dates on which they could depose Objectors “in-person.” Ms. Laufenberg and Ms. Weaver also stated that they would issue a subpoena to require production of documents, including any retainer agreement(s) by which Objectors’ counsel was/were retained and all documents that Objectors had read in connection with the settlement in the case.

The Preliminary Approval Order does not authorize the deposition of objectors, and the Notice to the Class does not inform members that a deposition is a condition of exercising their right to object. Moreover, Class Counsel’s motion reveals the superfluous

nature of the discovery they seek, including the basis for their objections, their relationships with their attorneys, any prior objections to settlements they may have made, and documents or communication related to their objections.¹ See Document 1148, p. 2-3. All of which concerns are addressed either by the objection itself or the declarations in support filed herewith. Specifically, consistent with this Court’s Preliminary Approval Order, Objectors have disclosed in their Objection – and/or in declarations filed concurrently herewith – their relationship with counsel, that no retainer agreements exist between them and their counsel, and their prior objection history.

There is no further non-privileged material sought by Class Counsel or required by this Court to evaluate the Objectors’ objections, and the burden of a deposition far outweighs its likely benefit.² FRCP 26(b).

To Feldman’s and Mahaney’s understanding, none of the other 43 Class members who have filed objections³ has been asked to sit for deposition. Singling out objectors represented by counsel discourages legal representation and reduces the likelihood objections will be well-stated and include supporting legal authority and analysis.

Nonetheless, if the Court is inclined to grant a deposition, it should provide for the deposition to be conducted by video conference, the same way the fairness hearing will be

¹ Plaintiffs also describe their desire to go fishing by pursuing any “any relevant topics prompted by their response to questioning.

² Objectors do not believe that the information they have voluntarily produced in connection with this opposition is relevant or necessary to rule on the merits of their objections, but they have voluntarily provided it in order to avoid further dilatory and burdensome discovery proceedings.

³ As of July 11, 2023. Document 1145, p. 13.

conducted. Because Ms. Feldman's counsel resides in Massachusetts, it would be extremely burdensome for him to travel to northern California during the next two weeks to defend a deposition in person. Permitting a deposition by video is consistent with Rule 26's focus on minimizing the burdens of discovery.

CONCLUSION

The perspective of Objectors Feldman and Mahaney regarding the case, the proposed settlement, and attorneys' fees is fully set forth in their objection filed as Document 1147. All other non-privileged information related to Class Counsel's concerns is addressed by declaration in support of this opposition filed herewith.

Class member/Objectors Feldman and Mahaney ask that the Court deny Plaintiffs' Administrative Motion for Partial Relief from Stay.

Respectfully submitted,

/s/ Kendrick Jan

Kendrick Jan
Kendrick Jan, APC
225 Broadway, Suite 2220
San Diego, CA 92101
Tel: (619) 231-7702
kj@jan-law.com

/s/ John J. Pentz

John J. Pentz, *pro hac vice* forthcoming
18 Damon Street
Wayland, MA 01778
Phone: (978) 261-5725
jjpentz3@gmail.com

Attorneys for Class members/Objectors
Sarah Feldman and Jill Mahaney

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was filed with the Clerk of Court using CM/ECF on July 24, 2023, and as a result has been served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: s/ Kendrick Jan